



## **DEPARTMENT OF THE TREASURY**

### **Office of the Secretary**

### **31 CFR Part 1**

### **RIN 1505-AC50**

### **Privacy Act; Implementation**

**AGENCY:** Office of the Comptroller of the Currency, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury (Treasury) amends this part to partially exempt a new Office of the Comptroller of the Currency (OCC) system of records entitled “Treasury/CC .800-Office of Inspector General Investigations System” from certain provisions of the Privacy Act.

**DATES:** Comments must be received no later than [insert date 30 days after publication in the *Federal Register*].

### **ADDRESSES:**

Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail, if possible. Please use the title “Proposed Rule for New Privacy Act System of Records” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- **E-mail:** [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).
- **Mail:** Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

- **Hand Delivery/Courier:** 400 7<sup>th</sup> Street, SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.
- **Fax:** (571) 465-4326.

*Instructions:* You must include “OCC” as the agency name and the docket number in your comment. In general, OCC will enter all comments received into the docket without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this notice by appearing personally to inspect and photocopy comments at the OCC, 400 7<sup>th</sup> Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

**FOR FURTHER INFORMATION CONTACT:** Kristin Merritt, Special Counsel, Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW., Washington, DC, 20219.

**SUPPLEMENTARY INFORMATION:** Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system is investigatory material compiled for law enforcement purposes. Treasury is hereby giving notice of a proposed rule to exempt “Treasury/CC .800- Office of Inspector General Investigations System” from certain provisions of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption pursuant to 5 U.S.C.

552a(k)(2) is from provisions (c)(3), (d)(1)-(4), (e)(1), (e)(4)(G)-(I), and (f) because the system contains investigatory material compiled for law enforcement purposes. The following are the reasons why this system of records maintained by the OCC is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974:

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c)(1) and (2) to the individual named in the record at his/her request. The reasons for exempting this system of records from the foregoing provision are:

(i) The release of disclosure accounting would put the subject of an investigation on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to which disclosure was made. The release of such information to the subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the alteration or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the subject and the scope of the investigation and could aid the individual in impeding or compromising investigations by those agencies.

(2) 5 U.S.C. 552a(d)(1)-(4), (e)(4)(G), (e)(4)(H), and (f). These provisions of the Privacy Act relate to an individual's right to be notified of:

(i) The existence of records pertaining to such individual;

- (ii) Requirements for identifying an individual who requested access to records;
- (iii) The agency procedures relating to access to and amendment of records;
- (iv) The content of the information contained in such records; and
- (v) The civil remedies available to the individual in the event of an adverse determination by an agency concerning access to or amendment of information contained in record systems.

The reasons for exempting this system of records from the foregoing provisions are that notifying an individual (at the individual's request) of the existence of an investigative file pertaining to such individual or granting access to, or the right to amend, such an investigative file pertaining to such individual could allow individuals to learn whether they have been identified as suspects or subjects of an investigation. Such knowledge would impair and interfere with the OCC's, the OIG's, and other agencies' investigative, enforcement, or criminal proceedings because individuals could:

- (i) Take steps to avoid detection;
- (ii) Inform associates that an investigation is in process;
- (iii) Learn the nature of the investigation;
- (iv) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records;
- (iv) Destroy evidence needed to prove the violation;
- (v) Constitute an unwarranted invasion of the personal privacy of others;
- (vi) Disclose the identity of confidential sources and reveal confidential information supplied by such sources; or
- (vii) Disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting this system of records from the foregoing requirements is that: At the time that the OCC collects information it often lacks sufficient time to determine whether the information is relevant and necessary to accomplish the purposes of an investigation. Therefore, what appears relevant and necessary when first received may subsequently be determined to be irrelevant or unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(4) 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons for claiming an exemption from this provision are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures.

(ii) Revealing categories of sources of information could cause sources who supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

(iii) Revealing categories of sources could cause informers to refuse to give full information to investigators for fear of having their identities as sources disclosed.

Treasury will publish the notice of the proposed new system of records separately in the *Federal Register*.

Pursuant to Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612, do not apply.

The regulation will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 USC 601-612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The proposed rule imposes no duties or obligations on small entities.

#### **List of Subjects in 31 CFR Part 1**

Privacy.

Part 1, subpart C of title 31 of the Code of Federal Regulations is amended as follows:

#### **PART 1--[AMENDED]**

1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 paragraph (g)(1)(iii) is amended by adding the following text to the table in numerical order.

**§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.**

(g) \* \* \*

(1) \* \* \*

(iii) \* \* \*

Number				Name of system		
*	*	*	*	*	*	*
CC .800.....				Office of Inspector General Investigations System		
*	*	*	*	*	*	*
*	*	*	*	*		

Dated: May 12, 2015.

Helen Goff Foster,  
Deputy Assistant Secretary for Privacy, Transparency, and Records.  
**Billing Code: 4830-33-P**

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